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Serial No. 09/158,968

REMARKS

The Office action has been carefully considered. Claims 25, 26, and 43 were

objected to for various informalities. Claims 1-43 were rejected under 35 U.S.C. § 102(e)

as being anticipated by Gaisford et al., U.S. Patent No. 6,023,586 (hereinafter "Gaisford").

By present amendment, claim 15 has been amended, claims 25, 26, and 23 have been

cancelled, and claims 44 and 45 have been added. Applicants submit that the claims as

filed were patentable over the prior art of record, and that the amendments herein are for

purposes of clarifying the claims and/or for expediting allowance of the claims, and not for

reasons related to patentability. Entry of the response and reconsideration of the claims

under the provisions of 37 C.F.R. 1.116 is earnestly solicited.

Applicants thank the Examiner for the interview held (by telephone) on August 12,

2003. During the interview, the Examiner and applicants' attorney discussed the claims

with respect to the prior art. The essence of applicants' position is incorporated in the

remarks below.

The Office action objected to claims 25, 26, and 43 alleging that they should be

written in independent form. Applicants have added new independent claim 44 which is

substantially similar to dependent claim 25 (which has been cancelled as duplicative) and

new independent claim 45 which is substantially similar to dependent claim 43 (which has

been cancelled as duplicative). Applicants have also cancelled dependent claim 26 to

expedite allowance and not in view of the prior art. Reconsideration is respectfully

requested.

Turning to the rejection on the art, the present invention as claimed is generally

directed towards at least three significant concepts that are clearly not taught or suggested

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by the prior art of record, namely 1) assigned programs, 2) assigned programs that are

advertised as available for execution prior to their installation, and 3) published programs.

Further, the recited manner in which assigned and published programs are deployed, e.g.,

via an association with a policy recipient, and/or via an advertise script, are also not taught

or suggested by the prior art

As described in the specification, an assigned program is one that an administrator

or the like, via policy data, declares it mandatory for a policy recipient to have, whether that

policy recipient is a computer or a machine. Note that by mandatory, it is meant that the

policy recipient has no option to override the assignment (however it is possible for one

policy such as that of a different administrator to supersede another policy, and thus

configure the computer system in some other manner). At each logon event (for a user) or

network connection event (for a machine), or at some other time such as periodically, the

computer system is automatically configured according to the policy data to have the

assigned programs made available for execution on the computer system. Because the

computer will be reconfigured as needed according to the policy data at the next time of

program deployment, any change made to an assigned program (e.g., removal of the

program by a user) will be automatically corrected, e.g., an assigned program that was

removed will be automatically made available for execution at the next time of deployment.

Assigned programs are thus resilient.

Another significant concept that the prior art of record fails to teach or suggest is the

concept of advertising, in which assigned programs may be made available for execution,

before they are actually installed on the machine. In other words, when a program is

advertised as available for execution prior to its installation, there is some data on the

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machine that makes the program in fact executable, even though at least some of the code

that is needed to execute the program *is not yet actually installed on that machine.*

Advertising, as defined in the specification, is a concept that is much more than simply

letting a user know that an application can be *installed,* but rather refers to pre-configuring

a local computer system with the information the system needs to *execute* program code.

With advertised programs, any needed installation occurs automatically, as part of the

execution process. Once installed, an assigned program is present on a system, and thus

need not be advertised again unless and until that program is altered in some way (e.g.,

uninstalled or overwritten), whereby at the time of next deployment the assigned program

will again be advertised as available for execution.

In general, advertising is generally accomplished by receiving and locally

maintaining information about the program, (e.g., registry settings, icon data, file or object

associations and so forth) prior to installation of the code required to run the program. For

example, a shortcut that looks like a shortcut to any other executable program may be made

to appear on the desktop and/or Start Menu of a computer system, even though the code

that executes the program has not yet been installed on the computer system, and may well

not be installed until actually needed to execute. Similarly, registry entries may be written

to a system so that when execution is needed, (e.g., a file with a registered extension is

double-clicked for opening), a corresponding program identity may be determined via the

registry, whereby the appropriate program code may be automatically installed and then

automatically executed. In other words, when execution is requested for an advertised

program that is not already installed, the program (any needed code) is installed on demand,

and thereafter automatically executed. Advertising thus provides substantial benefits over

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the prior art of record, because among other things, programs are made available for

execution, but not installed until execution is actually requested, thus avoiding unnecessary

installations (which are expensive) for policy recipients that never request execution.

A third difference from the prior art of record is with respect to published programs.

Published programs are those that the associations / policy data indicates as optional (e.g.,

specifically allowable but not mandatory) for a user and/or machine to have. Unlike

assigned programs (including assigned programs that are advertised), published programs

essentially have no presence on a machine (no registry entries, shortcuts, etc.) until

activated in some manner, such as by requesting that a file be opened when that file has a

file extension that corresponds to a published program, or requesting a published object.

Published programs are not resilient like assigned programs, e.g., they may be removed or

otherwise changed without being automatically restored.

Note that the above explanation is for informational purposes only, and should not

be used to limit the claims, which are discussed below.

Claim 1 generally recites maintaining an association between each program and a

the policy recipient, at least one association corresponding to a program that is assigned as

mandatory for the policy recipient to have and at least one other associated corresponding

to a program that is published as optional for the policy recipient to have, determining a

time for deploying each assigned program to the policy recipient and making that program

available to the policy recipient at that time, and deploying each published program to the

policy recipient when the published program is activated.

The Office action cites column 15, line 64 – column 16, line 14 to allege that

Gaisford discloses that at least one of the programs that Gaisford installs are "assigned as

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mandatory for the policy recipient to have" and that "at least one other association corresponding to a program that is published as optional for the policy recipient to have" as recited in claim 1. Applicants strongly disagree. The cited text and Gaisford in general make no mention of having some programs that are optional and some programs that are mandatory. If anything, the cited text refers to different modes for verifying the integrity of software on a system and reinstalling corrupted portions of the software. This is far different from and does not disclose or suggest assigning some software as mandatory for a policy recipient to have and other software as optional for a policy recipient to have as generally recited in claim 1.

In order to support an anticipation rejection, the Office action must show that each and every element of the claimed invention is disclosed in a single reference, and that each element is arranged as in the claim. In addition, "all words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Gaisford does not disclose or suggest assigning mandatory and optional programs. For at least these reasons, applicants submit that claim 1 and the claims that depend from it are clearly patentable over Gaisford. Reconsideration and withdrawal of the rejections of claim 1 and the claims that depend from it based on Gaisford are respectfully requested.

The dependent claims contain additional aspects that are not disclosed or suggested in the combined references. For example, dependent claim 8 generally recites making the program available to the policy recipient comprising advertising the program as available for execution prior to installation of program code used to execute the program on the computer system, and further comprising, in response to a request to execute the program,

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installing the program code at the computer system and executing the program code.

Dependent claim 9 recites that advertising the program as available includes adding an

application shortcut to a user profile such that a user perceives the program as executable

prior to installation of program code used to execute the program on the computer system.

The Office action cites figure 9 and column 15, line 29 – column 16, line 14 to

allege that Gaisford discloses the subject matter of claims 8 and 9. Applicants strongly

disagree. There is no suggestion in figure 9, the cited text, or Gaisford in general that "in

response to a request to execute the program" the program code is installed at the computer

system and then executed as generally recited in claim 8. In Gaisford, the code for the

program already exists on the computer system. When one double-clicks on an icon in

Gaisford (see, e.g., column 15, lines 42-44), there is no indication or suggestion in Gaisford

that this action causes the computer system to *install* and execute the program code; this

would be nonsensical, as the program code in Gaisford is already installed. The other

selections available in Gaisford, e.g. the VERIFY command 280 and the properties 282,

also do not disclose or suggest the subject matter of claims 8 or 9.

Furthermore, Gaisford certainly does not disclose, suggest, or remotely hint that

advertising the program as available includes adding an application shortcut to a user

profile such that a user perceives the program as executable *prior to installation of program*

code used to execute the program on the computer system as recited in claim 9. In figure 9

of Gaisford, the user has essentially two options: to launch the application (that already

exists on the computer system) or to verify that the application is not corrupted and

download missing files. In either case, the application is already installed (even if it is

corrupted), and so the user does not perceive that the program is executable *prior to*

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installation of program code used to execute the program. Certainly, the Office action is not suggesting that when the user clicks on the VERIFY command 280 of Gaisford, that the user perceives that the program is executable *prior to installation* as generally recited in claim 9. If anything, the opposite is suggested as the user clicks on the VERIFY command 280 *after* a program has been installed to determine if the installation is corrupted. See column 16, lines 3-5. At least for these additional reasons, claims 8 and 9 are patentable over Gaisford.

Independent claims 15 and 24 also recite, among other things, advertising an assigned program as available for execution by the policy recipient prior to installation of the program code needed to execute the program. In Gaisford, as discussed previously, there is no disclosure or suggestion of advertising that a program as available for execution *prior to* installing the program code needed to execute the program. At least for these reasons, claims 15 and 24 and the claims that depend thereon are patentable over Gaisford.

Claim 15 also generally recites that *the program* (i.e., the program that is advertised as available for execution) is installed *in response to a request to execute the program.* Gaisford does not disclose or suggest installing the program in response to a request to execute the program. Verifying that a program is not corrupted is not a request to execute the program. At least for these additional reasons, claim 15 and the claims that depend thereon are patentable over Gaisford.

Independent claim 35 generally recites assigned program data and published program data, wherein the computer system is configured to have assigned programs available for execution upon a deployment event, wherein the published program data identifies programs that are optional, and wherein each published program is deployed upon

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a detected need for that published program. As discussed earlier, Gaisford has no

disclosure, suggestion, or notion of optional programs or of deploying optional programs

upon a detected need (e.g., when a user selects an icon that advertises that the program is

available for execution prior to installation of the program code used to execute the

program as recited in claim 39). At least for this reason, claim 35 and the claims that

depend thereon are patentable over Gaisford.

Further, applicants submit that claims 44 and 45 are patentable over the prior art of

record for at least the reasons set forth above.

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CONCLUSION

In view of the foregoing remarks, it is respectfully submitted that claims 1-22 and

24, 27-42, and 44-45 are patentable over the prior art of record, and that the application is

good and proper form for allowance. A favorable action on the part of the Examiner is

earnestly solicited.

If in the opinion of the Examiner a telephone conference would expedite the

prosecution of the subject application, the Examiner is invited to call the undersigned

attorney at (425) 836-3030.

Respectfully submitted,

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